REMARKS

This Amendment is submitted in reply to the Non-Final Office Action dated June 24, 2010. Applicant respectfully requests reconsideration and further examination of the patent application pursuant to 37 C.F.R. § 1.111.

Summary of the Examiner's rejections

Claims 27-52 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 27, 28, 31-35, 37-40, 44, 47-51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams (US 6,144,669) in view of Nakatsugawa (US. 6,243,830B1).

Claims 29, 30, 45, 46, and 53-55 stand under 35 U.S.C. § 103(a) as being unpatentable over Williams (US 6,144,669) in view of Nakatsugawa (US 6,243,830B1) in further view of Sakaguchi (US 2003/0212855A1).

Claims 36, 42-43, and 52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams (US 6,144,669) in view of Nakatsugawa (US 6,243,830B1) in further view of Leung (US 2002/0132613A1).

Summary of Amendments

Applicant has canceled claims 53-55 (without prejudice), and amended claims 27, 37, and 38. The support for the amendments to the independent claims 27, 37 and 38 can be found in the canceled dependent claims 53-55. No new subject matter has been added.

Remarks regarding the §101 rejections

Claim 27 stands rejected under 35 U.S.C. § 101 because the recited method is not tied to a particular machine or does not transform underlying subject matter (such as an article or material) to a different state or thing. Applicant traverses this rejection. The amended claim 27 recites the following:

27. A method of managing a state memory adapted for storing state information applicable in a message communication between communications units in a communications system, **the method implemented by a first communication unit and a second communication unit** comprising the steps of:

-defining at the first communication unit at least two message classes of the messages communicated between the first communication unit and the second communication unit; and

-dividing said state memory in the first communication unit into at least two memory portions, each memory portion being assigned for storing state information associated with a specific message class;

- and in that said state memory is arranged in the first communication unit and is allocated for storing state information used in message communication with the second communications unit;

- and in that said second communications unit requesting said first communications unit to allocate state memory space utilized for storing said state information used in said message communication with said second communications unit; and

wherein the state memory is allocated before said first communication unit and said second communication unit start transmitting data messages therebetween (emphasis added).

As can be seen, the amended independent claim 27 specifically recites "**the method implemented by a first communication unit and a second communication unit**" so as to meet the machine-or-transformation test. Hence, the method is tied to a particular machine. In the alternative, the U.S. Supreme Court in Bilski, et al. v. Kappos, decided on June 28, 2010 held that the machine-or-transformation test, as previously announced by the Federal Circuit Court of Appeals, is not the sole test for patent eligibility under § 101, stating that: "The Court is unaware of any ordinary, contemporary, common meaning of "process" that would require it to be tied to a machine." Hence, the Examiner's basis for rejecting the amended independent 37 is no longer based on current patent law. In view of the two foregoing arguments, Applicant respectfully requests the removal of this rejection to independent claim 27 and the corresponding dependent claims 28-36.

Claims 37 and 38 stand rejected under 35 U.S.C. § 101 because the Applicant attempted to claim non-statutory subject matter (i.e. software). Applicant has amended claims 37 and 38 to recite a "hardware-containing unit" and a "hardware-containing communications unit". Applicant respectfully submits that the amended claims 37 and 38 are directed to a "concrete thing" namely a "hardware-containing unit" and a

"hardware-containing communications unit" both of which are a "machine" that is one of the four patent-eligible subject matter categories namely the process, <u>machine</u>, manufacture, and composition of matter (see 35 USC 101). Hence, Applicant submits that the amended independent claims 37 and 38 are directed to statutory subject matter and not software per se. Accordingly, Applicant respectfully requests the removal of this rejection to the amended independent claims 37 and 38 and the corresponding dependent claims 39-40, and 32-52.

Remarks regarding the §103(a) rejections

Applicant respectfully submits that the amended independent claim 27 is patentable in view of Williams, Nakatsugawa, Sakaguchi, Leung or any combination thereof. The amended independent claim 27 is as follows:

> 27. A method of managing a state memory adapted for storing state information applicable in a message communication between communications units in a communications system, the method implemented by a first communication unit and a second communication unit comprising the steps of:
> -defining at the first communication unit at least two message classes of the messages communicated between the first communication unit and the second communication unit; and
> -dividing said state memory in the first communication unit into at least two memory portions, each memory portion being assigned for storing state information associated with a specific message class;
> - <u>and in that said state memory is arranged in the first communication unit and is allocated for storing state information used in message communication with the second communications unit;</u>
> - <u>and in that said second communications unit requesting said first communications unit to allocate state memory space utilized for storing said state information used in said message communication with said second communications unit; and</u>
> <u>wherein the state memory is allocated before said first communication unit and said second communication unit start transmitting data messages therebetween</u> (emphasis added).

Note: The amended independent claim 27 recites the limitations of the previously presented claims 27 and 53—except that the term "divided" used in the previously presented claim 53 was changed to "allocated" to better correspond with the use of "allocated" and "allocate" in the previously presented claim 27.

Applicant respectfully submits that Williams, Nakatsugawa, and Sakaguchi fail to disclose the claimed limitations where "the second communication unit requesting said

first communications unit to allocate state memory space utilized for storing state information…wherein the state memory is allocated before said first communication unit and said second communication unit start transmitting data messages therebetween". Hence, the second communication unit allocates the state memory in the first communication unit before the first communication unit and the second communication unit start transmitting data messages therebetween.

In this regard, the Examiner has indicated that "Williams et al. as modified by Nakatsugawa does not specifically disclose that the state memory is _divided_ before said first communication unit and said second communication unit start transmitting data messages therebetween" (see page 17 in the Office Action)(emphasis added). Applicant notes that Williams and Nakatsugawa still have the same deficiency even when the highlighted term _divided_ was changed to _allocated_ in the amended independent claim 27. The Examiner has also cited Sakaguchi and stated the following:

> Sakaguchi et al. show and disclose a system for controlling divided areas of a cache memory, wherein the state memory is divided before said first communication unit and said second communication unit start transmitting data messages therebetween (paragraph [0028]).

(see page 17 in the Office Action)

In particular, Sakaguchi discloses the following:

> [0028] The system manager assigns the size of each cache memory area. FIG. 5 shows an area setting screen in this embodiment. When the system manager starts up the area setting screen, at first the system manager is requested to set the number of divisions (for the cache memory) on the displayed screen (step 501). When the setting ends, the system manager is requested to set the size of area #1. On the screen, the system manager can also set the size of each cache memory area (steps 502 and 503). The total of the area sizes cannot exceed the capacity of the usable cache memory area, so that the first area size is accepted within a range of 0 to the maximum cache memory size. Similarly, the size of the (n)-th area can be selected within 0 to the remaining cache memory size. When sizes are set for all the areas, the area setting program is terminated. Sizes are not equal among all the areas; an area that is often used can have a larger size. Consequently, the cache memory can be controlled efficiently.

(see paragraph [0028])

As can be seen, Sakaguchi discloses where a person namely the system manager interfaces with an area setting screen to assign the size of each cache memory area. In contrast, the amended independent claim 27 recites where the second communication unit requests the first communication unit to allocate state memory space for storing state information and that the state memory is allocated before the first communication unit and the second communication unit start transmitting data messages therebetween. Hence, Sakaguchi fails to disclose where a second communication unit which will be communicating with a first communication also allocates the state memory in the first communication unit before the first communication unit and the second communication unit start transmitting data messages therebetween.

Furthermore, Applicant respectfully submits that by amending independent claim 27 to recite the limitation "wherein the state memory is allocated before said first communication unit and said second communication unit start transmitting data messages therebetween" makes it clear that Nakatsugawa does not cure William's deficiency with respect to the claimed "that said state memory is arranged in a first communication unit and is allocated for storing state information used in message communication with a second communications unit; and in that said second communications unit requesting said first communications unit to allocate state memory space utilized for storing said state information used in said message communication with said second communications unit" (see page 6 in the Office Action).

In this regard, the Examiner has indicated that Nakatsugawa's report communication units (second communication units) by sending a recovery command to the collecting communication unit (first communication unit) effectively alters (allocates) it's state memory (see pages 23-24 in the Office Action). However, the amended independent claim 27 now makes it clear that the second communication unit requests the first communications unit to allocate (or divide) state memory space before the transmission of data messages therebetween. Hence, it is no longer proper to interpret Nakatsugawa's report communication unit's sending of a recovery command to the collecting communication unit as being equivalent to the claimed second communication unit

requesting the first communications unit to allocate (or divide) state memory space before the transmission of data messages (recovery commands) therebetween.

In view of at least the foregoing, Applicant submits that the aforementioned substantial differences between the amended independent claim 27 and Williams, Nakatsugawa, Sakaguchi or any combination thereof are indicative of the patentability of the amended independent claim 27 and the corresponding dependent claims 28-36 and 53. The cited Leung does not cure the deficiencies of Williams, Nakatsugawa, Sakaguchi.

Moreover, Applicant respectfully submits that the amended independent claims 37 and 38 are patentable in view of Williams, Nakatsugawa, Sakaguchi, Leung or any combination thereof. The amended independent claims 37 and 38 recite the same or similar distinguishing limitations that have been discussed above with respect to the amended independent claim 27. As such, the aforementioned remarks regarding the patentability of amended independent claim 27 apply as well to amended independent claims 37 and 38. Accordingly, Applicant respectfully requests the allowance of the amended independent claims 37 and 38 and the corresponding dependent claims 39-40, and 42-52.

CONCLUSION

In view of the foregoing remarks, Applicant believes all of the claims currently pending in the application to be in a condition for allowance. Therefore, Applicant respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for pending claims 27-40 and 42-55.

The Commissioner is hereby authorized to charge any fees for this paper to Deposit Account No. 50-1379.

Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

/William J. Tucker/

By William J. Tucker
Registration No. 41,356

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Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(214) 324-7280 or (972) 583-2608
william.tucker@ericsson.com